February 4, 2003

Via Hand Delivery

Denise L. Desautels
Selma Urman
Presiding Officers
Energy Facilities Siting Board
One South Station
Boston, MA 02110

Re: EFSB 02-RM-2

Dear Ms. Desautels and Ms. Unman:

Enclosed please find an original and five (5) copies of Comments of KeySpan Energy Delivery New England in regard to the above matter. Also, an electronic copy is being sent.

Thank you for your attention to this matter.

Very truly yours,

Patricia Crowe

PC:em
Enclosure

cc: Deidre Shupp Mathews, Director
Paul Afonso, DTE General Counsel
Jolette Westbrook, Siting Board General Counsel

COMMONWEALTH OF MASSACHUSETTS
Energy Facilities Siting Board

Promulgation of Rules Governing Siting of Natural Gas Pipelines and Participation in Federal Siting Proceedings, and Repeal of Certain Existing Siting Board Rules	EFSB 02-RM-2

COMMENTS OF KEYSPAN ENERGY DELIVERY NEW ENGLAND

Patricia Crowe
KeySpan Energy Delivery New England
52 Second Avenue, 4th Floor
Waltham, MA 02451
781-466-5131

COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD

Promulgation of Rules Governing Siting of Natural Gas Pipelines and Participation in Federal Siting Proceedings, and Repeal of Certain Existing Siting Board Rules	EFSB 02-RM-2

COMMENTS OF
KEYSPAN ENERGY DELIVERY NEW ENGLAND

KeySpan Energy Delivery New England ("KeySpan" or the "Company")[1] submits these comments in response to the Energy Facilities Siting Board's ("Siting Board" or "Board") December 20, 2002 Final Order Opening Rulemaking ("Rulemaking Order"). KeySpan primarily focuses its comments on the proposed "clarifi[cations] of certain jurisdictional issues" (Rulemaking Order at 5) because of KeySpan's deep concern that these "clarifications," as proposed, would significantly increase the number of natural gas pipeline construction projects that would require Siting Board review and, thereby, substantially increase costs to consumers while suppressing economic development in the Commonwealth.

The existing Siting Board regulations recognize that the statutory reach of the Board's review is limited to "new" pipelines in excess of one mile in length and more than 100 pounds per square inch gauge ("psig") of pressure by excluding from review those projects that are a normal part of a local distribution company's ("LDC") ongoing system maintenance of existing pipelines 980 CMR §§ 7.07(8) (c) and (d).[2] The proposed regulations would significantly narrow these exclusions from Siting Board jurisdiction and, at the same time, further broaden the

[1] The Massachusetts local distribution companies that do business as KeySpan Energy Delivery New England are Boston Gas Company, Colonial Gas Company, and Essex Gas Company.

[2] 980 CMR § 7.07(8)(c) excludes: "The upgrading of an existing pipeline, which has been in existence for at least 24 months and which is capable of operating at pressures in excess of 100 psi gauge." 980 CMR § 7.07(8)(d) excludes: "Construction of a pipeline which for at least the first two years of service will be used at a pressure of less than 100 psi gauge or which involves the rebuilding, relaying, minor relocation, or restructuring of all or part of an existing line which traverses essentially the same route."

Board's jurisdiction by expanding both the definition of normal operating pressure and what would constitute a pipeline in excess of one mile. Proposed 980 CMR §§ 15.01(2) and 15.02. The combined effect of these changes would be that many more construction projects would become subject to Siting Board review. For an LDC, this process takes up to two years of preparation and adjudication and increases the cost of each project by upwards of 20 percent, while providing little benefit to the Commonwealth and its citizens.

KeySpan supports the efforts of the Siting Board to streamline and update regulations to address changing conditions and appreciates the invitation of the Board to submit these comments. KeySpan will describe its process of planning, building, operating, and maintaining its gas distribution infrastructure to provide safe, adequate, and reliable service in a cost-effective manner; address how certain provisions of the Siting Board's proposed regulations would severely interfere with the Company's ability to continue this process; and suggest alternative means of addressing the concerns identified by the Siting Board in a manner consistent with the statutory mandate of ensuring a "reliable energy supply for the commonwealth with a minimum impact on the environment at the lowest possible cost." G.L. c. 164, § 69H.

I. BACKGROUND

A. SYSTEM MAINTENANCE

KeySpan's gas distribution system in Massachusetts consists of over 10,000 miles of mains and services. It is one of the oldest gas distribution systems in the United States, with approximately 2,600 miles of cast iron mains.. KeySpan replaces a significant portion of them each year pursuant to the Company's cast iron main replacement program. Municipal projects, such as water system repair or street reconfiguration, requires KeySpan also to replace significant lengths of pipe each year. The restructuring, relaying, or reconstruction of existing mains is one of the most significant cost drivers of the Company.

Importantly, pipeline maintenance restructuring, relaying, or restructuring is very dynamic. Whereas much of system maintenance is planned years in advance, a substantial portion cannot be. Leak detection and municipal projects may require a quick turnaround; even unexpected changes in customer demand or pressure can precipitate a need for system work that has not been reflected in the long-term planning horizon. Therefore, it is not unusual that one segment of a pipeline may be replaced at a point in time when there are no plans to replace a contiguous segment. Yet unforeseen events over the next few years may require the replacement of a contiguous segment. Often this second event requires a short turn-around time to meet municipal or customer requirements or to maintain the safety, adequacy, or reliability of the system.

When pipes must be replaced, it often is prudent to do the replacement with a pipe of larger circumference or thicker walls. The cost of a new pipe with greater capability varies little in comparison to the cost and environmental impact of future excavation. The planning and permitting process, even without Siting Board review, is expensive and protracted. This is exacerbated in urban areas, such as the City of Boston, where there are five-year restrictions on excavations of newly paved streets and onerous repaving requirements when excavations are allowed. The "next size" pipe could only have a positive effect on safety and reliability. With gas pipes having average service lives of many decades, the world just may change enough at some point to require an upgrading.

As with fiber-optic cable in the communications industry, it simply makes sense to install the pipe with greater capability even if there is no foreseeable plan to upgrade the capacity of the pipeline of which it forms a part.

Although not rising to the level of an emergency, these construction projects on existing pipes are time-urgent, must meet a schedule not within the control of the Company, and

usually cannot be delayed by a year or two. Any rule change that increases the frequency of review raises significant cost concerns because of the high LDC cost to prepare and litigate a Siting Board application, and its inherent delay of construction raises serious concerns of system safety, adequacy, and reliability.

B. SYSTEM EXPANSION

In addition to maintaining the safety, adequacy, and reliability of its existing gas distribution system, KeySpan has been responding to growing customer demand by adding 425 miles of new mains to bring gas service to new customers since January 2000. KeySpan expects this accelerated pace to continue for the foreseeable future. This system expansion enhances energy competition by providing residential, commercial, and industrial customers an alternative—one that is safe, reliable, and environmentally preferable. It is an important element in the continued and growing attractiveness of the Commonwealth to residents and businesses and, therefore, to its economy.

Whereas, unlike system maintenance, the vast majority of the system expansion construction projects are susceptible to long-term planning, some are not. There are times when a new, large customer or a new residential or commercial development requires a main extension to access gas service within a short time frame. And, whatever the construction schedule, as with pipe replacement for system maintenance, there are times when LDCs should somewhat oversize their pipelines for the economic and environmental benefits of reducing the possibility of future excavations, even if there is no intent to operate at higher pressures. Under the proposed regulations, more of these situations would become subject to Siting Board review, and in many instances this would have the unintended effect of delaying or denying gas service to those customers. With the high and growing volume of system expansion activity in the KeySpan service territory, such broadening of regulatory restrictions on siting gas pipelines would

unnecessarily interfere with such expansion, resulting in a significant, negative impact on the economic development of the Commonwealth.

II. CONSTRUCTION OF NATURAL GAS PIPELINE FACILITIES UNDER PROPOSED 980 CMR SECTION 15.00

The Siting Board specifically requests comments related to the length, pressure and time interval thresholds that trigger the Board's jurisdiction with respect to pipeline construction and replacement. In this regard, the Siting Board asks for comments to four questions.

1. Is § 15.01(2) clear about the conditions under which a pipeline project is defined as jurisdictional to the Siting Board, or is there a class of projects for which jurisdiction would remain uncertain?

2. Does a five-year time-span provide a reasonable basis to encompass contiguous construction activities?

3. Is there a way to define "normal operating pressure" that can be objectively, accurately, and assuredly determined prior to facility construction?

4. To what extent would the new regulation change the number or type of gas pipeline petitions that are submitted?

The responses to the Board's questions are addressed below but placed in the context of the concerns raised by certain provisions of the proposed regulations.

The statutory mandate of the Board is to ensure a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost. G.L. c. 164 § 69H. In that regard, certain gas pipeline construction activities are subject to the Board's jurisdiction. General Laws, chapter 164 Sec. 69G defines a facility subject to Siting Board jurisdiction in pertinent part as "a new pipeline for the transmission of gas having a normal operating pressure in excess of 100 pound square inch which is greater than one mile in length, except restructuring, rebuilding or relaying of existing transmission lines of the same

capacity." The Siting Board proposed regulations would, rather than providing the clarification of statutory implementation it seeks, distort the effect of the regulations so as to make fulfillment of the statutory mandate impossible. In particular, the following proposed provisions must be recast or removed to avoid a significant increase in the number of pipeline construction projects that would become subject to Siting Board review: § 15:01(2)(a) regarding segmentation; § 15:01(2)(b) regarding replacement; and the definition of normal operating pressure set forth in § 15:02. Adoption of the proposed regulations would (i) unnecessarily increase the number and type of projects submitted to the board, (ii) increase costs to consumers and companies, (iii) impede economic growth, and (iv) provide no appreciable benefit to residents of the Commonwealth.

The incremental cost to the LDCs, and ultimately their customers of each additional Siting Board review would be significant. Based on experience, KeySpan estimates the cost of Siting Board review, over and above any construction costs, to range from $200,000 to $700,000 per project. This represents an increase in the total cost of a project by a minimum of 20 percent depending on the size of the project. The smaller the project, the greater the percentage increase in total project costs. Further, KeySpan estimates that the lead time for pipeline construction projects that require Siting Board approval is up to five years. Moreover, an LDC and its customers would have no assurance that the project could be completed unless and until the Board issues an approval.

A. PIPELINE SEGMENTATION

Proposed Section 15.01 (2)(a) seeks to address the issue of "segmentation," i.e., companies separating construction projects into segments of a mile or less to avoid Siting Board jurisdiction. Under this proposal, the Board would add together the length of all adjacent pipes constructed over a historical five-year time span to determine whether the one-mile jurisdictional

threshold has been met. While the company recognizes and appreciates the Board's concern regarding segmentation, this proposal has serious flaws.

The Company employs a five-year forward looking capital planning and review process. Clearly, any Company pipeline project over the course of the five-year plan that involves new pipeline construction in excess of one mile and that will have a normal operating pressure in excess of 100 psig would be subject to Siting Board jurisdiction. However, by necessity, the Company's capital planning process is a fluid one. Oftentimes, unanticipated changes to the plan are required to account for leak repair activity, unplanned street reconstruction by state and local authorities, or increased demand from new or existing customers—none of which may meet the Siting Board's criteria for an emergency. These changes could and do result in projects that on their own do not meet the statutory requirements for Siting Board review. If as contemplated by the proposed regulations, new pipeline construction is redefined to mean "any adjacent lengths of gas pipeline constructed within the five preceding years," then, many of these projects—essentially, by the happenstance of proximity--would become jurisdictional. Effectively, this redefines the plain statutory meaning of what constitutes a new pipeline of one mile in length. Therefore, it does not pass legal muster. Just as important, it would be poor policy.

First, this retrospective review would be impractical. For example, assume that two noncontiguous pipes of 3000 feet are constructed in year one. Assume also, that it was necessary, although unanticipated, that a short (much less than a mile) connecting piece is built or upgraded in year five. Under the proposed rules, as a result of the work on the short connector almost five years after the initial projects, the pipeline would fall under the Board's jurisdiction. But what would be the subject matter of the review? The 6,000 feet of pipe has been installed and lawfully in operation for several years. Would the two originally non-contiguous pipes that

were not subject to the Board's jurisdiction for years, now be subject to review? The work on the connecting pipe raises no new environmental or cost issues concerning the original 6000 feet of pipe. Or, would the short connection be subject to the Board's full review? The statute never intended that such a process would apply to a piece of pipe of this length. Each time this new segmentation approach is applied, this dilemma would arise because the proposed definition would always involve some pipe that is already lawfully in place and operating and a "new" pipe that is a mile less.

Second, the remedy is overly broad. The expressed intent of the proposed regulation is to "reduce the potential for segmentation of a pipeline project to avoid siting review, without requiring inquiry into the motives of a developer who constructs a natural gas pipeline in stages." Rulemaking Order at 6. To avoid this "inquiry into motives," the proposed regulation would, instead, simply assume that the motives are always unlawful. This is not a constructive solution.

Putting the problem of segmentation in perspective, segmentation is a very inefficient business practice. To perform each of the tasks for pipeline construction—such as engineering, materials procurement, subcontracting, state and local permitting—for only a portion of the project and have to duplicate each of thee tasks for each new portion is very wasteful.[3] Furthermore, gas pipeline construction cannot be expected to go unnoticed. Permits must be obtained from state and local authorities. For instance, if a pipeline is to be constructed in excess of 5000 feet, 220 CMR § 101.04 requires that the Department of Telecommunications and Energy be informed before construction begins. Also, pipeline construction within 100 feet of wetlands would require at a minimum an environmental notification form filing. Depending on

[3] If to the contrary the Siting Board process is so burdensome that this inefficient approach makes economic sense, then we respectfully suggest that the Board engage in a review of how that process might be modified.

the project, numerous other permits may also be required. Thus, there is little opportunity or motivation for an LDC to hide pipeline construction from the Siting Board.

Therefore, the retroactive determination of segmentation as proposed would more often apply where no segmentation was intended. Rather events beyond the plans and control of the LDCs caused the need for construction projects that just happened, over a five-year time-period, to be contiguous and to have a combined length in excess of a mile.

To address segmentation, the Siting Board should consider the approach of the federal government and incorporate an explicit statement in its regulations that planned segmentation of projects to avoid jurisdiction is not allowed. KeySpan suggests that the Siting Board also consider biennial informational filings by LDCs of construction of pipelines above a certain maximum allowable operating pressure ("MAOP") (perhaps 100 psig) and greater than a certain length (perhaps 2000 feet). This would be a strong disincentive for LDCs to choose to segment, and it would better enable the Siting Board to monitor pipeline construction activities for possible segmentation--while avoiding the severe economic burden on LDCs and their customers that would result from the present Siting Board proposal.

In sum, the proposed rule regarding segmentation is overbroad, unreasonably burdensome, and results in unnecessary additional costs for many more Siting Board reviews than are reasonably required to meet the statutory intent and to address actual or perceived segmentation. Stating clearly that purposeful segmentation is prohibited and requiring informational filings should address the Siting Board's concerns,

B. REPLACEMENT OF EXISTING PIPE

The balance between reliability of energy supply, impact on the environment, and cost-minimization is reflected in the existing Siting Board regulations. Specifically, the Board's regulations contain appropriate exclusions that allow LDCs to plan and construct their

distribution systems while maintaining the Board's authority to properly perform its responsibilities under the statute. The "clarification" set forth in § 15.00 of the proposed rules dramatically disrupts this balance by all but eliminating these exclusions.[4] Each exclusion applicable to gas pipelines is currently contained in 220 CMR § 7.07(8)(c) and (d) and captures situations where the pipeline activity presents minimal environmental impact while addressing critical operational and maintenance concerns. Those exclusions strike a very importance balance in clarifying when pipelines are not considered ***new*** and, therefore, are not subject to Siting Board jurisdiction. Elimination of these exclusions, will increase the number of projects which require Siting Board review and approval, increase the cost of those projects and, in turn, increase the rates of utility customers.

1. UPGRADING

Section 7.07(8)(c) excludes from jurisdiction "the upgrading of an existing pipeline, which has been in existence for at least 24 months and which is capable of operating at pressures in excess of 100 psi gauge." There are good and necessary reasons for this exclusion. First, its existence for 24 months attests to it not being ***new***. Second, because this section addresses merely the "upgrading," i.e., the improvement of existing pipelines, the impact on the environment would be relatively minor as compared to a new pipeline. Third, pipeline upgrading is driven by concerns of system safety, adequacy, and/or reliability. Such upgrading should be encouraged, and unnecessary regulatory cost burdens should be removed. As an example, under the existing regulations, if an LDC maintains a section of its distribution system that has a normal operating pressure of greater than 100 psig and that distribution system has

[4] Proposed § 15.01(1) would supersede any provisions contained in 980 CMR §§ 5.00, 7.00 and 9.00 that relate to proposals to construct gas pipeline facilities. Although the Siting Board has indicated that it would repeal only two sections of its existing rules, §§ 7.07(7)(d) and 7.07(9), the existing exclusions are not maintained in the proposed regulations.

been in place for more than two years, and now operating conditions warrant upgrading of a 6,000-foot section of that pipe to accommodate the addition of a new large customer, the LDC would be allowed to complete the construction without experiencing the delay and incurring the expense of seeking Siting Board approval. The proposed regulations would, instead, require Siting Board approval for any of these projects for which approval had not already been previously obtained. Therefore, such "grandfathered" pipeline projects, those installed before the Siting Board statute and regulations were enacted in the early 1970s would no longer be excluded from jurisdiction. Because pipelines have service lives of many decades, a significant portion of KeySpan's system would be affected. Thus, in this instance if the upgrading for the customer involved one of the Company's older pipes, there would be a significant risk that the added cost and delay of Board review would result in the customer being unable to obtain gas service or possibly not continue business at that location, resulting in a negative effect on the customer, the LDC and its other customers, and the economy of the Commonwealth. The rationale for the exclusion found in section 7.07(8)(c) applies not only to upgrades for new customer demand but to projects undertaken for purposes of leak repair, cast iron main replacement, or municipal street reconstruction. The expense and delay of Siting Board review would be unjustified in each of these instances. The exclusion should not be removed.

2. PRESSURE INCREASES

The existing § 7.07(8)(d) provides two additional exclusions from jurisdiction. The first excludes "construction of a pipeline which for at least two years of service will be used at a pressure of less than 100 psi gauge." There are several justifications for this exclusion. First, as with the upgrading exclusion, the two-year period takes the pipeline out of the statutory limitation of ***new***. Second, a mere change in pressure will have no effect on the environment and have a relatively small effect on costs. Therefore, there is little or nothing for the Board to

review. Third, the exclusion affords an LDC some measure of certainty when planning capital construction projects. Absent this exclusion, an LDC would be faced with the Hobson's choice of either submitting an application to the Board for every project over one mile in length regardless of the planned operating pressure or run the risk of being forever barred from operating that pipeline at a pressure in excess of 100 pounds.

Rather than expanding the scope of the Board's jurisdiction to include low pressure pipeline construction projects, and unnecessarily increasing the cost to LDCs and consumers, a better approach would be to maintain the exclusion so long as an LDC certifies to the Board that the proposed pipeline will operate at a normal pressure of under 100 psig for a minimum period of two years and that it will notify the Board and the Department of Telecommunications and Energy ("Department") should it ever decide to operate that pipeline above 100 pounds psig.[5] Absent some reasonable time limit on what is considered "new" construction, such as two years, the proposed regulations would impermissibly allow the Board to retroactively review completed construction projects which were not within the purview of the statute at the time construction took place.

3. ALTERATION OF EXISTING PIPELINES

Proposed Section 15.01(2)(b) would also significantly modify the second exclusion of subsection 7.07(8)(d), which involves "the rebuilding, relaying, minor relocation, or restructuring of all or part of an existing line which traverses essentially the same route," by requiring that any restructured, rebuilt, or relayed pipe must be exactly the same diameter and design pressure as the original pipe. Consistent with the other existing exclusions, the alteration

[5]If to the contrary the Siting Board process is so burdensome that this inefficient approach makes economic sense, then we respectfully suggest that the Board engage in a review of how that process might be modified.

of a pipe within its existing route is not construction of a ***new*** pipe. Also consistent with the other exclusions, by containing the work to the existing route, there is a considerably reduced environmental impact concern compared to construction in a new route. And placing a pipe that has a thicker wall, and thus is capable of withstanding greater pressures or one that is inches wider than the existing pipe, will have no more of an effect on the surrounding community and environment than replacing the pipe with one of the same diameter and design pressure (which would not be subject to Siting Board review). Often it is prudent, as long as the trench is open, for an extra margin of safety and reliability, to install pipe that is somewhat larger than an existing pipe that is in need of replacement. It is the better economic and environmental choice, because, as the world changes and as unexpected needs arise over time, installing the "next size" pipe may avoid the significant cost and disruption of future excavation. To require a full Siting Board review for this type of construction does nothing to further the intent of the statute. In contrast, it would require gas utilities to choose between incurring the immediate and significant cost that review would entail or foregoing an opportunity to realize the present and potential benefits of improving the quality of the pipe in the groune.

C. NORMAL OPERATING PRESSURE

General Law, chapter 164, § 69G defines a pipeline for the transmission of gas that is subject to Siting Board jurisdiction as having a "normal operating pressure" in excess of 100 psig. The statute does not anywhere refer to MAOP. Nevertheless, proposed § 15.02 provides that any pipeline with an MAOP in excess of 150 psig would be deemed to have a normal operating pressure in excess of 100 psig. This is basically calling an apple an orange. The Board's proposed regulations cannot now change the plain meaning of the term normal operating pressure in order to expand Siting Board jurisdiction, any more than it can define a

mile as less than 5,280 feet. This proposed change is legally unsound. Furthermore, it raises serious policy concerns.

Normal operating pressure is the expected pressure that a pipeline operator intends to operate that pipeline under normal operating circumstances to maintain safe, adequate, and reliable service. MAOP is a very different concept. An MAOP under the federal rules is based on a pressure test. Under federal regulations and industry practice, the pressure to which a line is tested, that is, the MAOP, does not directly determine the pressure at which a line will normally operate, only the maximum at which it could physically operate. The MAOP of a line can be higher than the normal operating pressure of a line; however, how much it exceeds normal operation pressure varies for a variety of reasons unrelated to how a pipeline operator plans to operate that pipeline. To assume, as does the proposed regulation, a correlation between 150 MAOP and 100 psig normal operating pressure is arbitrary and without basis.

Sound engineering practice and system design often dictate that a new pipeline be tested and rated in excess of 150 psig even though normal operating pressure is expected to be less than 100 psig. This is because the incremental cost to build the system to higher specifications is far less than the future cost to uprate the pressure under 49 CFR Part 192, subpart K. In fact, in many instances once the pipeline is in operation, uprating under subpart K would be impossible without taking the system completely out of service for an extended period of time. Customers on the system would be without service. And a higher MAOP inherently increases the safety and reliability of the pipe regarding its normal operating pressure.

If § 15.02 were to be adopted as proposed, Massachusetts LDCs may be forced to make uneconomic decisions when installing new pipe. To avoid uprating of pipe in the future when additional pressure is necessary for growth and reliability, LDCs would have to seek Siting Board review for a non-jurisdictional pipe even though uncertain whether it would ever become

jurisdictional. Or LDC would choose to install lesser grade pipe to avoid the additional costs and delays of Board review. These safety, reliability, and cost issues are unintended and negative consequences of adopting § 15.02 as drafted.

D. SUMMARY OF RESPONSES TO THE SITING BOARD'S QUESTIONS

Therefore, within the context of the above comments, KeySpan's responses to the Siting Board's four question are: (a) Whether or not proposed Section 15.01(2) brings clarity as to which projects are classified as jurisdictional, that classification is dramatically narrowed thereby in a manner that raises serious policy issues and has the legal flow of contravening the language and intent of the enabling statute; (b) Five years is not a reasonable time-frame for supporting the assumption that contiguous pipeline projects meet the statutory definition of a "new" facility; (c) Normal operating pressure is a standard industry term meaning the pressure at a which a pipeline operator intends to operate its pipeline under normal conditions to maintain safe, adequate, and reliable service. However, system operation is dynamic, and what constitutes a particular pipe's normal operating pressure can be expected to change over time; and (d) The new regulations, as more-specifically addressed above, would significantly change the number and type of gas pipeline petitions submitted because (i) projects not considered ***new*** under existing exclusions would be so considered if those exclusions were narrowed as proposed; (ii) projects not considered in excess of a mile would be so considered with the application of the new segmentation provision; and (iii) projects not considered today to operate over 100 pounds psig would be considered to do so under the new definition of normal operating pressure.

III. PIPELINE PROJECTS UNDERGOING FERC REVIEW

In its Rulemaking Order, the Siting Board, states that it will exempt from Board review "only those interstate pipelines or interstate pipeline laterals that receive a full project specific § 7 CPCN, including a needs analysis, alternatives analysis, and substantive environmental review

of the proposed route, pursuant to § 7(c) of the Natural Gas Act." The Board goes on to state that any other construction of pipeline that meets the pressure and size thresholds in G.L.C. 164, § 69H, as interpreted in proposed §§ 15.01 a d15.02, would come under Siting Board Review. Rulemaking Order at 6-7.

Included within the Federal Energy Regulatory Commission's ("FERC") powers is the authority to grant blanket certificates to interstate pipelines. Under this blanket authority, an interstate pipeline may, among other activities, perform upgrades and maintenance on its facilities. KeySpan is a customer and sometimes a beneficiary of an interstate pipeline's projects such as upgrades of pipelines facilities performed under blanket certificates. KeySpan is concerned that if the Siting Board intends to review services, an interstate pipeline performs under a FERC authorized blanket certificate or other FERC authorized approval, then such action would result in construction delays and additional costs to the Company and its customers.

IV. CONCLUSION

KeySpan supports the efforts of the Siting Board to clarify the regulations governing the siting of gas pipelines. However, the regulations as proposed are contrary to the Siting Board's statutory mandate to ensure the provision of a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost. Based on the unintended and negative consequences of certain provision of the proposed regulations, as discussed above, KeySpan urges the Board to consider the alternatives offered by KeySpan and not adopt the rules as proposed. KeySpan further offers to participate with the Board and other interested parties in whatever means the Board deems appropriate in order to craft regulations that meet the expressed concerns of the Board while enabling Massachusetts LDCs to provide safe, adequate, and reliable service in an environmentally acceptable manner at the lowest possible cost to consumers and to maximize the opportunities for the Commonwealth's economic development.

Respectfully submitted,

KEYSPAN ENERGY DELIVERY
NEW ENGLAND

By its attorney,

DATED: February 4, 2003

Patricia Crowe
KeySpan Energy Delivery New England
52 Second Avenue, 4th Floor
Waltham, MA 02451
(781) 466-5131
Richard A. Visconti
General Counsel